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82D CONGRESS
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SENATE

REPORT
No. 687

ROSE A. MONGRAIN

AUGUST 20 (legislative day, AUGUST 1), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 857]

The Committee on the Judiciary, to which was referred the bill (H. R. 857) for the relief of Rose A. Mongrain, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On page 1, line 6, strike the figure "\$2,540.05" and insert in lieu thereof the figure "\$5,000".

PURPOSE

The purpose of the proposed legislation, as amended, is to pay the sum of \$5,000 to Mrs. Rose A. Mongrain in full settlement of all claims against the United States on account of personal injuries sustained by her on June 15, 1944, when she slipped and fell on the floor of the vestibule of the main post office building at Lowell, Mass.

STATEMENT

On June 15, 1944, an unidentified person dropped a bottle of some kind of liquid in the front vestibule of the post office at Lowell, Mass. Due to the fact that the liquid was spreading out on the floor, an employee was called to clean the floor. Mrs. Mongrain, who was in the post office on business, left the money-order window and approached the nearest doorway leading from the main lobby into the vestibule. At this point it is not clear from the record whether the custodial employee reached the scene and was engaged in mopping up

the liquid at the time that Mrs. Mongrain entered the vestibule; Claimant's statement indicates that he was. The postal inspector's report, based on the affidavit of a clerk in the post office, indicates that he was not. The House report adopted claimant's statement. In any event, Mrs. Mongrain proceeded to go out the nearest door into the vestibule, where she slipped on the liquid dropped by the unidentified patron. As a result of her fall, she suffered a lumbrosacral sprain, a thoraco-lumbar sprain, and hematoma of both knees, which resulted in her being hospitalized for 44 days.

Sometime after the accident, Mrs. Mongrain, through her attorney, filed a claim for \$3,940.05 against the Government, which was disallowed in 1946 on the ground that the evidence did not establish the responsibility of the Government. However, the report of the postal inspector who investigated the accident for the Post Office Department stated in his report that he was satisfied that the claimant suffered an injury on Government property through no negligence on her part. He further states that the injury which the claimant suffered was doubtless painful, although it did not result in permanent injuries.

The committee is satisfied that the evidence before it establishes that the claimant was injured while on Government property through no fault of her own. However, the committee does not agree with the House of Representatives that the sum of \$2,540.05, which the House proposed to award this claimant, constitutes a reasonable settlement in view of the nature and extent of her injuries. It is the conclusion, therefore, of the committee that the award provided in this bill should be raised to the sum of \$5,000 and that, as amended in this manner, the bill should be favorably considered.

Attached to and made a part of this report is the report of the Postmaster General submitted in connection with the bill introduced in an earlier Congress and the report of the post-office inspector referred to earlier in this report. Also attached to this report is a letter addressed to the Honorable William Langer, Senator from the State of North Dakota, concerning the damages incurred by the claimant with respect to her injuries.

OFFICE OF THE POSTMASTER GENERAL,
Washington 25, D. C., August 4, 1948.

HON. EARL C. MICHENER,
*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR CONGRESSMAN: Complying with the request of your committee dated March 12, I transmit for consideration with H. R. 5769 copies of all papers in the files of this Department relating to the claim of Mrs. Rose A. Mongrain, of Lowell, Mass., who seeks compensation in the amount of \$3,940.05 for injuries received on June 15, 1944, when she fell in the lobby of the main post-office building at Lowell.

The investigation of this accident disclosed that an unidentified patron dropped a bottle containing some kind of liquid on the lobby floor and that a patron called the attention of one of the clerks in the office to the fact that the liquid was spreading out on the floor. This clerk immediately instructed a custodial employee to remove the liquid and such employee immediately responded to that direction. While the custodial employee was mopping up the liquid on the floor Mrs. Mongrain, who had transacted business in the post office and was about to leave same, approached the scene of the mopping operation so closely that she slipped and fell. Although Mrs. Mongrain concluded that the custodial employee was washing the floor, her conclusion was incorrect. On the other hand, since she admitted seeing the man with a mop and pail working on the floor, there can be no reasonable excuse for her going so close to him that she stepped in the liquid which he was removing from the floor.

Mrs. Mongrain presented a claim against the Government, which was disallowed in January 1946 on the grounds that the evidence did not establish the responsibility of the Government.

I recommend that the pending bill be not favorably considered.

This Department has been advised by the Bureau of the Budget that it would have no objection to the submission of this report to the committee.

Sincerely yours,

J. M. DONALDSON, *Postmaster General.*

Case No. 69663—M

POST OFFICE DEPARTMENT,
BUREAU OF THE CHIEF INSPECTOR,
OFFICE OF INSPECTOR,
Lowell, Mass., October 7, 1945.

Lowell, Mass.: Injuries to Mrs. Rose Mongrain of 432 Suffolk Street, sustained by fall in the lobby of the post office building on June 15, 1944.

INSPECTOR IN CHARGE,
Boston, Mass.:

1. This case is returned with report of personal attention at Lowell, Mass., on several dates beginning with September 26 and ending September 30, 1945. It relates to a claim for personal injuries and loss of employment sustained by Mrs. Rose A. Mongrain, age 47, of 432 Suffolk Street, Lowell, Mass., as a result of a fall in the vestibule of the lobby of the Federal Building, main post office, at Lowell, Mass., on June 15, 1944. The claimant has submitted a claim for \$3,940.05, on Form 28, herewith, through her attorney, Hon. Arthur L. Eno, Lowell, Mass.

2. On September 27, 1945, Mrs. Rose A. Mongrain was interviewed at 432 Suffolk Street, Lowell, Mass., her place of business and present residence. The claimant is the proprietor of the Rose Beauty Shoppe. At that time she was dressed in her uniform and was located in the beauty salon, in the front part of the building. She was apparently carrying on her business then. After some conversation, Mrs. Mongrain accompanied me to the Federal Building where she indicated the spot in the lobby of the vestibule where she fell on June 15, 1944. Later, she walked upstairs to the office of the post office inspector on the second floor, where, after some further conversation regarding the accident, she submitted an affidavit which is herewith. It is not believed necessary to quote her affidavit as it is substantially in agreement with that of Mr. James L. O'Dea, an employee of the post office at Lowell, Mass., who witnessed the accident. Mrs. Mongrain came to this office again on September 29, 1945, with her husband to present her completed claim. On that date she again walked upstairs to the office without any apparent effort or injury. On one other occasion, when I was absent from Lowell, Mrs. Mongrain came to the post office to discuss her injury and on that occasion, also, she walked upstairs. In my opinion, this claimant has fully recovered from any injuries sustained by her fall on June 15, 1944.

3. The affidavit of Clerk James L. O'Dea, herewith, indicates that he was on duty in the general delivery section on June 15, 1944. The window to this section is almost in front of the vestibule door leading into the main lobby of the building. Persons entering and leaving the lobby via the vestibule can be plainly seen from the general delivery window as the distance is about 15 feet. Clerk O'Dea states that shortly before noon some patron directed his attention to the fact that someone had dropped a bottle of some kind of liquid in the front vestibule and that the floor was wet. Realizing that this was a menace to the safety of patrons and employees, Mr. O'Dea called for a custodial employee to clean the floor. In the meantime he had left his window, entered the lobby, and approached the spot. Before he reached it and before the custodial employee arrived, a woman started to leave the lobby, via the vestibule, near where he was standing, when she slipped on the vestibule floor and fell. Mr. O'Dea indicated that the spot where the liquid had been spilled was just inside the vestibule door. The door leading from the lobby to the vestibule swings outward and the danger spot would not be visible to a person leaving the lobby until he had stepped on it. Mr. O'Dea states that he could not see how this woman could have avoided falling on the slippery vestibule floor. It has been ascertained that the bottle which was dropped in the vestibule by some patron was a pint of insecticide called Black Fly. The broken bottle was found later by Custodial Employee Daniel E. Donnelly, behind one of the granite columns on the front steps. This liquid was almost colorless and oily and a place about 3 or 4 feet square in the vestibule was made slippery and dangerous by the contents.

4. Prompt action was taken to remove the menace but during the few minutes before Mr. O'Dea and the custodial employee reached the spot, this woman had fallen to the floor. Mr. O'Dea has since identified Mrs. Mongrain as the woman who fell and whom he assisted to the office of the superintendent of mails. A short while after this Mrs. Mongrain was taken to her home in a taxicab. There appears to be no doubt that the claimant fell and injured herself on Government property. There is no evidence to indicate that she was negligent.

5. The postmaster at Lowell, Mass., reported the accident to Government physician, Dr. Philip E. Mullane, of this city. Dr. Mullane visited Mrs. Mongrain at her home on the day of the accident. His report is in the file. It states that Dr. Mullane did not fully determine the extent of the claimant's injuries, but that it did appear she received a severe shaking up with possible contusion of the scalp, strained back, injury to right shoulder and arm and left thigh. Upon learning that the claimant had placed herself in the care of her own physician and having learned that she had been ordered to St. Joseph's Hospital, Lowell, Mass., for X-ray and observation, Dr. Mullane gave the case no further attention.

6. Mrs. Mongrain was seen by her physician, Dr. Louis A. Sicard, Lowell, Mass., on June 16, 1944, and she was ordered to the hospital. Dr. Sicard has attended the claimant since the accident. His diagnosis is herewith attached to his bill. It is as follows: Lumbosacral sprain, thoraco-lumbar sprain; hematoma of both knees; associated condition, menopause, and nervous exhaustion. Dr. Sicard submitted a bill to the claimant in the amount of \$250, covering attention while she was hospitalized from June 16, to July 29, 1944; office treatments consisting of bakes and massages on 55 occasions.

7. St. Joseph's Hospital, Lowell, Mass., has presented the claimant with a bill of \$240.70 which is herewith, covering hospitalization for 44 days at \$5 per day; laboratory fees, \$7.50; X-ray service, \$10; and medication, \$3.20.

8. A transcript of the hospital record has been obtained and is herewith. Physical examination at the time of admission to the hospital shows: Large hematoma of right gluteal area; hematoma of thoracolumbar area, extending between scapuli and between third and eighth ribs on both sides; marked tenderness over entire spine and also over sacroiliac joints; motion in any direction impossible due to extreme pain and tenderness; motion of spine limited in any plane; and superficial abrasions and lacerations over back, knees, and gluteal areas. Treatment prescribed consisted of medication and X-rays. The X-ray report indicated that the portion of the spine in question as well as the pelvis were normal in all respects. The condition of the claimant at time of discharge indicated marked tenderness in the thoracolumbar and sacroiliac areas; that motion of the spine was limited to 50 percent and that the patient was unable to raise her arms more than 45 degrees. Patient was discharged with the understanding that she was to continue treatment at home and to return for check-up in 2 weeks. There is no evidence that she did return to the hospital for check-up.

9. Dr. Sicard prescribed a special kind of corset for the claimant. She has submitted bills for two such corsets amounting to \$24, from the Cherry & Webb Co., Lowell, Mass. She also submitted bills for prescriptions given by her physician which were filled as follows: Liggett Drug Co., Lowell, Mass., \$4.80; Louis Bailly, registered pharmacist, Lowell, Mass., \$20.55.

10. The claim for loss of wages, \$50 per week for 68 weeks, amounting to \$3,400, is considered unreasonable. This claim is based on the claimant's statement that prior to the accident she was able to give all sorts of beauty treatments, as an operator in her own salon, and that she frequently earned in excess of \$50 per week. This was in addition to revenue derived from the wages of one other operator and one apprentice operator. She claims that since the accident she has been unable to perform the duties of an operator.

11. In answer to my inquiry of September 29, 1945, Mr. Edward Doyle, secretary; Department of Industrial Accidents, for the Commonwealth of Massachusetts, advised on October 9, 1945, that Mrs. Mongrain has never made claim or received payment for loss of wages resulting from this accident.

12. The post office delivery records at Lowell, Mass., indicate that the place of business of the claimant was closed for 1 week following the accident. Since that time the business of the claimant has been carried on by her sister, an experienced operator, and one apprentice operator. It appears that these two employees have taken care of such business as has been attracted to this salon since the accident and that the only loss to the business which resulted from the accident was that sustained during a week of closing. The claimant estimates the loss at \$50 per week. I am satisfied that the claimant has been able to be about her shop and give her business her personal attention since her return from the hospital on July 29, 1944. I have no reason to doubt her statement that she does not now give beauty treatments, personally. This is based on her statement that business has been very poor and that her one experienced operator and one apprentice operator can accommodate all beauty patrons who come to her shop. In addition to her business as a beautician, Mrs. Mongrain operates a beauty supply business with her husband, in her store. I am satisfied that she performs most of the duties connected with this other business.

13. I am satisfied that the claimant in this case did suffer an injury on Government property at Lowell, Mass., on June 15, 1944, through no negligence on her part. This injury was doubtless painful but did not result in a permanent injury. It necessitated hospitalization for 44 days. The present nervousness and other symptoms of the claimant are, in my opinion, associated with her age and possibly with previous abdominal operations mentioned in the records of the hospital. Her physician certifies that associated conditions are menopause and nervousness and this appears to support my contention. The bills covering the expense to which the claimant was put as a result of the accident appear to be reasonable and it will be recommended that she be allowed an amount sufficient to cover them.

14. In this file will be found a rough sketch of the main lobby and vestibule of the Federal Building at Lowell, Mass., showing where the accident took place.

15. It is recommended that Mrs. Rose A. Mongrain, 432 Suffolk Street, Lowell, Mass., be allowed \$590.05, for expenses incurred as a result of an accident in the Federal Building at Lowell, Mass., on June 15, 1944, as follows:

Bill of Dr. Louis A. Sicard, Lowell, Mass.	\$250. 00
Bill of St. Joseph's Hospital, Lowell, Mass.	240. 70
Bill of Louis Bailly, druggist, Lowell, Mass.	20. 55
Bill of Liggett Drug Co., Lowell, Mass.	4. 80
Bill of Cherry & Webb, Lowell, Mass.	24. 00
Loss of wages, 1 week at \$50 per week	50. 00

Total..... 590. 05

Closing of this case is recommended.

O. R. HORNE, *Inspector.*

Examined, approved, and forwarded to Chief, October 15, 1945.

TENNYSON JEFFERSON,
Inspector in Charge.

FLOOD, VALENTINE & FOISY,
Lowell, Mass., July 9, 1951.

Hon. WILLIAM LANGER,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am replying to your letter of June 30th, last, addressed to our client, Rose A. Mongrain, of 81 Dalton Street, this city, wherein you stated that the bill in its present form was not sufficient to compensate her for her injuries.

This is a case of long standing, having been shunted from the House to the Senate and back again on a number of occasions. I refer you to House bill No. 1702 of the Eighty-first Congress, which was a bill submitted originally by Congresswoman Rogers of this city. You are no doubt familiar with the manner in which this accident happened. The bill was originally sent in for the amount of \$3,940.05. After it had been in committee it was reduced to \$2,540.05. Mrs.

Mongrain, whom we have known for a number of years, conducted a beauty parlor and beauty-supply business in this city. As a result of this accident she was hospitalized for 43 days and lost 68 weeks from her employment, for which she claimed the sum of \$50 per week as her profit. As a result of this accident she lost her business, and it had to be sold at a tremendous loss. The bill to the doctor amounted to \$250; her hospital bill, \$240.70; Louis Bailly, druggist, \$20.55; Liggett's Drug Co., \$4.80; Cherry & Webb Co. for a corset for her back, \$24; her loss in wages, \$3,400. Consequently, the exact amount of her bills alone, plus loss of wages, came to \$3,940.05, not including months of suffering as well as the loss of her business.

If this case were tried before a jury on these facts, this woman would be compensated at least \$10,000. However, in view of the fact that the accident happened in 1944 and nothing has been done up to present time, we feel that the quicker the claim can be settled the better it will be for all concerned.

Trusting that this is of some benefit to you, and rest assured that Mrs. Mongrain appreciates everything you are doing on her behalf.

Yours very respectfully,

PAUL R. FOISY.

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